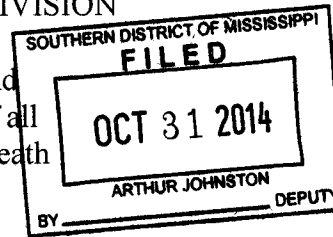


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

TAMIRA PAGE, as parent, guardian, and next friend
Of KELBY RAYEL HOLLIMAN, and on behalf of all
Other parties entitled to recover for the wrongful death
Of KELVIN HOLLIMAN, deceased



PLAINTIFF

VS.

CAUSE NO. 3:14cv851 *cur-HB*

WEXFORD HEALTH SOURCES, INC.; NURSE
BOYD; and Fictitious Defendants A-J

DEFENDANTS

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that this Notice of Removal together with the exhibits attached thereto have been filed today for and on behalf of WEXFORD HEALTH SOURCES, INC., in the United States District Court for the Southern District of Mississippi, Northern Division, and you are hereby served with a copy of this Notice of Removal of said cause to the District Court from the Circuit Court of Holmes County, Mississippi, upon the grounds stated herein and you will, pursuant to said removal proceed no further in the Circuit Court of Holmes County, Mississippi and you will be mindful of the provisions of 28 U.S.C. §1441, *et seq.*

GROUND FOR REMOVAL

1. This action was originally filed and is now pending in the Circuit Court of Holmes County, Mississippi, styled, *Tamira Page, et al. v. Wexford Health Sources, Inc., et al.*, Civil Action No. 2014-0270.

2. At the time this action was filed and at all times since, the Defendant, Wexford Health Sources, Inc., was and has been a foreign corporation incorporated in the State of Pennsylvania, with their principal place of business in Pittsburgh, Pennsylvania. As such Wexford Health Sources is a citizen of the State of Pennsylvania.

3. The Defendant, NURSE BOYD, is not an indispensable, necessary or proper party to the Plaintiff's Complaint and the claims against here have been fraudulently joined for the purpose of defeating this Court's jurisdiction as per West's A.M.C. §11-1-63. Thus Nurse Boyd is merely a nominal or formal party, being neither necessary nor indispensable to this cause. In light of this, Defendant, Nurse Boyd, is not required to join in and consent with this Notice of Removal. The defendant Nurse Boyd is or was an employee of Holmes County, Mississippi at the time of the incident, not Wexford, and is immune from liability.

4. The Plaintiff, Tamira Page, as parent, guardian, and next friend of Kelby Rayel Holliman, and on behalf of all other parties entitled to recover for the wrongful death of Kelvin Holliman, deceased, ("Page") is now and was at the time of filing said action an adult resident citizen of Forrest County, Mississippi.

5. Wexford Health Sources, Inc. ("Wexford") files this Notice of Removal of said cause of action, within thirty (30) days after the receipt by Wexford, through service or otherwise, of a copy of the initial pleading setting for the claim for relief upon which this action is based, in accordance with the requirements of 28 U.S.C. §1446(b).

6. The plaintiff's action against Wexford Health Sources, Inc. is a civil action for medical malpractice and negligence, both of which fail to state a cause of action against the non-diverse defendant, Boyd. Plaintiff seeks compensatory and punitive damages in an undisclosed amount which is reasonably believed to exceed the jurisdiction limit of the Court where this action is now pending.

7. The above described action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §1332, since this action is a controversy wholly between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive

of interest and costs. Boyd is neither indispensable, necessary nor a proper party to this action; and, thus, has been fraudulently joined in this case solely for the purpose of defeating this Court's diversity jurisdiction over this cause. This Court's jurisdiction cannot be defeated by joining a formal or unnecessary party. The right of removal depends only upon the case disclosed by the pleadings when the Complaint is filed and is not affected by the fact that the Defendant Boyd may be a citizen of Mississippi, and is not a part of the controversy between Page and Wexford, who are diverse, one to the other, under Title 28 U.S.C. §1332(a).

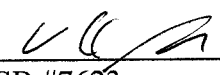
8. This notice of removal is filed within thirty (30) days after the service upon Wexford of a Summons and copy of the initial pleading setting forth the claim for relief upon which this action is based. Copies of all process, papers and pleadings served on Wexford Health Sources, Inc. in said action in the Circuit Court of Holmes County, Mississippi are attached hereto as Exhibit "A".

9. Upon information and belief, separate Defendant Boyd, has yet to be served process, and is not required to join herein.

Please take notice thereof and govern yourselves accordingly,

Respectfully submitted this the 31st day of October, 2014.

WEXFORD HEALTH SOURCES, INC.

/s/ V. K. Smith, III 
V. K. Smith, III, MSB #7623

V. K. Smith, III
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Attorneys for Wexford Health Sources, Inc.

CERTIFICATE OF SERVICE

I, V. K. Smith, III, attorney of record for Defendant, Wexford Health Sources, Inc., do hereby certify that I have this day served copies of the foregoing Notice of Removal, upon Cooper Ellenberg, attorney of record for the Plaintiff, Tamira Page, as parent, guardian, and next friend of Kelby Rayel Holliman, and on behalf of all other parties entitled to recover for the wrongful death of Kelvin Holliman, deceased, by mailing true and correct copies thereof to him at his correct legal address. I do further certify that I have served a true and correct copy of the same upon the Clerk of the United States District Court for the Southern District of Mississippi, Northern Division, and the Circuit Clerk of Holmes County, Mississippi, in the same manner, all in order to effectuate the removal of certain cause entitled *Tamira Page, et al. vs. Wexford Health Sources, Inc., et al*, Civil Action Number 2014-0270 on the docket of the Circuit Court of Holmes County, Mississippi, from that court to the United States District Court for the Southern District of Mississippi, Northern Division, pursuant to an in accordance with the statutes of the United States and the rules of the United States District Court in such cases made and provided.

So certified, this the 31st day of October, 2014.

/s/ V. K. Smith, III
V. K. Smith, III

